

Message Text

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FM SECSTATE WASHDC

TO USMISSION GENEVA

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FOR RMRC

E.O. 11652:

TAGS: AORG:UN

SUBJECT: U.S. POSITION AT 24TH SESSION UNHCR EXECUTIVE
COMMITTEE AS CONCERNS PROPOSED INTERNATIONAL
CONVENTION ON TERRITORIAL ASYLUM

REF: GENEVA 4853

U.S. POSITION AT 24TH SESSION UNHCR EXECUTIVE COMMITTEE IS
AS FOLLOWS CONCERNING ABOVE SUBJECT:

(1) U.S. EAGER TO PERCEIVE ADVANCEMENT OF WORLDWIDE
RECOGNITION AND IMPLEMENTATION OF HUMANE PRINCIPLE OF
ASYLUM. U.S. THEREFORE SUPPORTS THE CONVENING IN DUE
COURSE OF CONFERENCE OF PLENTIPOTENTIARIES TOWARD
FINALIZATION AND ULTIMATE ADOPTION OF EFFECTIVE, REALISTIC
TREATY ON ASYLUM. U.S. COULD PARTICIPATE IN PROPOSED
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CONFERENCE IF INVITED, WITH UNDERSTANDING THAT U.S.

PARTICIPATION WOULD NOT INVOLVE GUARANTEE OF U.S. ACCESSION, SINCE UNDER U.S. SYSTEM OF LAW, ACCESSION REQUIRES FULL COORDINATION AND AGREEMENT ON CONVENTION'S FINAL TEXT BY LEGISLATIVE AND EXECUTIVE BRANCHES OF U.S. GOVERNMENT.

(2) U.S. VIEWS PRESENT TEXT OF CONVENTION AS REQUIRING CONSIDERABLE FURTHER CONSIDERATION AND REFINEMENT. WE BELIEVE PARTS OF CONVENTION ARE VAGUE, AMBIGUOUS OR OTHERWISE INADVISABLE. IN PRESENT FORM, DRAFT CONVENTION

NOT ACCEPTABLE FOR ACCESSION BY U.S. FOR CONSTITUTIONAL AND OTHER REASONS.

(3) CONSEQUENTLY, WE BELIEVE PREMATURE TO SCHEDULE NOW A CONFERENCE OF PLENIPOTENTIARIES. HOWEVER, IN INTEREST OF HELPING DEVELOP DRAFT TEXT WITH WIDEST POSSIBLE ACCEPTANCE BY GOVERNMENTS, U.S. RECOMMENDS THAT FURTHER WORKING GROUP BE CONVENED FOR PURPOSES OF IRONING-OUT DIFFICULTIES IN PRESENT DRAFT AND PERFECTING TEXT. U.S. FURTHER SUGGEST THAT MEETING CONSIST OF AD HOC GROUP OF EXPERTS, PERHAPS WORKING WITHIN FRAMEWORK OF ECOSOC.

NOTE: DRAFT CONVENTION PROVIDES: INTER ALIA 1) THAT STATES WILL "USE THEIR BEST ENDEAVOURS" TO GRANT ASYLUM WHEN REQUESTED BY QUALIFIED PERSONS; 2) THAT SUCH ASYLUM WHEN GRANTED WILL BE PERMANENT; 3) THAT NO PERSON SHALL BE SUBJECT TO "REJECTION AT THE FRONTIER"; AND 4) THAT STATES GRANTING ASYLUM SHALL NOT PERMIT ASYLEES TO ENGAGE IN ACTIVITIES CONTRARY TO THE PURPOSES AND PRINCIPLES OF THE UNITED NATIONS. LAST CLAUSE WOULD COMMIT U.S. TO DISCRIMINATORY ACTION WITH RESPECT TO A PARTICULAR CATEGORY OF PERSONS AND FOR THIS REASON AND BECAUSE OF ITS VAGUENESS WOULD BE INCOMPATIBLE WITH U.S. CONSTITUTION. FIRST THREE CLAUSES WOULD REQUIRE CAREFUL SCRUTINY BY CONGRESS AND POSSIBLY RAISE SERIOUS QUESTIONS REGARDING THEIR RELATIONSHIP U.S. IMMIGRATION LAWS (PARTICULARLY WITH RESPECT TO DRAFT CONVENTION'S PROVISION FOR PERMANENT ASYLUM). PROPOSED CONVENTION COULD ALSO OPEN UP NEW ISSUES OF INTER-RELATIONSHIPS WITH

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1951 CONVENTION AND 1967 PROTOCOL ON REFUGEES, AND WITH EXTRADITION TREATIES. MOREOVER, PROPOSED CONVENTION IS LOOSELY DRAFTED AND TEXT APPEARS TO REFLECT POLITICAL CONCESSIONS TO PARTICULAR REGIONAL GROUPS OF GOVERNMENTS (E.G., REFERENCE IN ARTICLE 1 A TO APARTHEID OR COLONIALISM). FINALLY, STATE DEPT. OFFICIAL HAS CONSULTED WITH SEVERAL OF EXPERTS WHO PARTICIPATED IN BELLAGIO IN DRAFTING OF CONVENTION. EXPERTS AGREE THAT

DRAFT REQUIRES CONSIDERABLE WORK AND PERFECTION BEFORE
BEING SENT TO A CONFERENCE OF PLENIPOTENTIARIES. KISSINGER

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